

ORDER NO. 6028

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Michael Kubayanda, Chairman;
Ashley E. Poling, Vice Chairwoman;
Mark Acton;
Ann C. Fisher; and
Robert G. Taub

Competitive Product Prices
Global Reseller Expedited Package Services 2
(MC2013-51)
Negotiated Service Agreements

Docket No. CP2021-140

ORDER APPROVING ADDITIONAL
GLOBAL RESELLER EXPEDITED PACKAGE SERVICES 2
NEGOTIATED SERVICE AGREEMENT

(Issued October 29, 2021)

I. INTRODUCTION

The Postal Service seeks to include an additional Global Reseller Expedited Package Services 2 (GREPS 2) agreement (Agreement) within the GREPS 2 product.¹ For the reasons discussed below, the Commission approves the Postal Service's request.

¹ Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 2 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, September 28, 2021 (Notice).

II. BACKGROUND

Agreements included within the GREPS 2 product offer discounted prices for Priority Mail Express International, Priority Mail International, and Outbound Single-Piece First-Class Package International Service to U.S.-based consolidators, freight forwarders, and large shipping companies. These companies in turn serve as resellers that market shipping services at discounted prices to their customers, especially small- and medium-sized businesses.

On September 28, 2021, in accordance with 39 C.F.R. § 3035.105, the Postal Service filed its Notice, along with supporting documents. In the Notice, the Postal Service asserts that the Agreement is functionally equivalent to the baseline agreement for the GREPS 2 product and requests that the Agreement be added to the existing GREPS 2 product. Notice at 2-3. Among the supporting documents, the Postal Service included a copy of the Governors' Decision authorizing the GREPS 2 product, the Agreement proposed to be added to the product, a certification of compliance with 39 U.S.C. § 3633(a), and financial workpapers. In addition, the Postal Service submitted an application for non-public treatment of materials requesting that unredacted portions of the Agreement, customer-identifying information, and related financial information remain under seal. *Id.* Attachment 4.

The Postal Service will establish the effective date of the Agreement following the Commission's review. Notice at 3. If the effective date of the Agreement is the first of the month, the Agreement will expire one year after the effective date; otherwise, the Agreement will expire on the last day of the month one year after the effective date. *Id.*

On September 29, 2021, the Commission issued a notice establishing the instant docket, appointing a Public Representative, and providing interested persons with an opportunity to comment.²

² See Docket No. CP2021-140, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, September 29, 2021.

On October 8, 2021, the Commission issued Chairman's Information Request No. 1.³ CHIR No. 1 asked questions pertaining to the costs of providing international shipping services. See CHIR No. 1, questions 1, 3-9. CHIR No. 1 also asked a question relating to the impact of the proposed changes in analytical principles in Docket No. RM2021-8 on GREPS 2 agreements. *Id.* question 2. The Postal Service provided the requested responses to CHIR No. 1 on October 19, 2021.⁴

III. COMMENTS

The Public Representative filed comments on October 5, 2021.⁵ No other comments were received. Based upon a review of the Postal Service's filing, including the information filed under seal with the Commission, the Public Representative concludes that the Agreement is functionally equivalent to the baseline agreement and that the negotiated prices in the Agreement should generate sufficient revenue to cover costs. PR Comments at 2.

IV. COMMISSION ANALYSIS

The Commission's responsibilities in this case are to ensure that the Agreement: (1) is functionally equivalent to the baseline agreement established for the GREPS 2 product; and (2) satisfies the requirements of 39 U.S.C. § 3633 and applicable Commission rules (39 C.F.R. §§ 3035.105 and 3035.107).

Functional equivalence. In Order No. 1746, the Commission approved the addition of the GREPS 2 product to the competitive product list and designated an

³ Chairman's Information Request No. 1 and Notice of Filing Under Seal, October 8, 2021 (CHIR No. 1).

⁴ Response of the United States Postal Service to Chairman's Information Request No. 1, October 19, 2021.

⁵ Public Representative Comments on Postal Service Notice Concerning Filing of a Functionally Equivalent Global Reseller Expedited Package 2 Negotiated Service Agreement, October 5, 2021 (PR Comments).

agreement as the baseline agreement for assessing the functional equivalence of agreements proposed for inclusion within the GREPS 2 product.⁶

The Postal Service asserts that its filing demonstrates that the Agreement is functionally equivalent to the baseline agreement, and requests that the Agreement be included within the GREPS 2 product. Notice at 2-3. It asserts that the Agreement fits within the Mail Classification Schedule language for the GREPS 2 product. *Id.* at 3. The Postal Service also asserts that the Agreement and the baseline agreement possess similar cost and market characteristics and the same functional terms but states that prices may differ. *Id.* at 4. The Postal Service identifies numerous differences between the Agreement and the baseline agreement but asserts that these differences do not affect the fundamental service being offered or the fundamental structure of the Agreement.⁷

The Commission has reviewed the Postal Service's reasons for asserting that the Agreement shares similar cost and market characteristics with the baseline agreement; meets the pricing formula and falls within the classification established in the Governors' Decision authorizing this product; and comports with 39 U.S.C. § 3633 and applicable Commission rules. It also has considered the Public Representative's comments. The Commission concludes that the Agreement is substantially similar to the baseline agreement and that the differences between them do not fundamentally alter either the service the Postal Service will provide under the Agreement or the structure of the Agreement. The Commission therefore finds that the Agreement may be included within the GREPS 2 product.

Cost considerations. The Commission reviews each competitive product to ensure that it covers its attributable costs, does not cause market dominant products to

⁶ See Docket Nos. MC2013-51 and CP2013-64, Order Adding Global Reseller Expedited Package Contracts 2 to the Competitive Product List Negotiated Service Agreement, June 13, 2013, at 8-10 (Order No. 1746).

⁷ Differences include the identity of the contract partner and terms that pertain specifically to contract administration, such as payment methods, the duration of the Agreement, notice requirements, or record-keeping, as well as a provision for delivery via an alternate delivery provider.

subsidize competitive products as a whole, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3035.105 and 3035.107. As long as the revenue generated by a product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, a product that covers its attributable costs is likely to comply with 39 U.S.C. § 3633(a).

The Commission has reviewed the Postal Service's filing, including supporting financial analyses provided under seal, the Public Representative's comments, and the responses to the CHIRs. Based on this review, the Commission finds that the Agreement should cover its attributable costs. The addition of the Agreement to the GREPS 2 product will not cause cost coverage for the product to fall below 100 percent because, as the Commission found in the FY 2020 Annual Compliance Determination (ACD), the product as a whole covers its attributable costs.⁸ Consequently, the Commission finds that the addition of the Agreement to the GREPS 2 product should allow the product to continue to comply with 39 U.S.C. § 3633(a)(2). Because it finds that the addition of the Agreement to the GREPS 2 product should allow the product to cover its attributable costs, the Commission finds that the addition of the Agreement to the product should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the addition of the Agreement to the GREPS 2 product is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). Accordingly, a preliminary review of the Agreement indicates it is consistent with section 3633(a). The Commission will review the Agreement's cost coverage, the cost coverage of the GREPS 2 product, and the

⁸ Docket No. ACR2020, Annual Compliance Determination Report, Fiscal Year 2020, March 29, 2021, at 79.

contribution of competitive products as a whole to the Postal Service's institutional costs in the ACD to ensure that they continue to comply with 39 U.S.C. § 3633(a).

Based on the responses to CHIR No. 1, specifically questions 4-6, the Commission notes an unusual degree of uncertainty regarding future costs for this contract. Although the Commission finds that the contract should cover its attributable costs, the Commission recommends that the Postal Service carefully monitor this contract's ongoing performance to ensure that changes in future costs do not affect the continued ability of the contract to cover its costs.

Other considerations. The Postal Service will establish the effective date of the Agreement following the Commission's review. Notice at 3. The Postal Service shall promptly notify the Commission of the effective date of the Agreement. If the effective date of the Agreement is the first of the month, the Agreement will expire one year after the effective date; otherwise, the Agreement will expire on the last day of the month one year after the effective date. *Id.*

The contract also contains a provision that allows the parties to extend the contract for two 3-month periods. *Id.* The Commission finds the potential extension periods are reasonable because the extension(s) should assist the Postal Service's contract negotiations by providing additional flexibility.

If the Agreement is terminated prior to the scheduled expiration date, the Postal Service shall promptly file notice of such termination with the Commission in this docket.

V. ORDERING PARAGRAPHS

It is ordered:

1. The Agreement filed in Docket No. CP2021-140 is included within the Global Reseller Expedited Package Services 2 (MC2013-51) product. The revision to the Mail Classification Schedule appears below the signature of this Order and is effective immediately.
2. The Postal Service shall promptly notify the Commission of the effective date of the Agreement.
3. The Postal Service shall promptly file notice of the Agreement's termination with the Commission in this docket if the Agreement is terminated prior to the scheduled expiration date.

By the Commission.

Erica A. Barker
Secretary

CHANGES TO THE MAIL CLASSIFICATION SCHEDULE

The following material represents a change to the Mail Classification Schedule. The Commission uses two main conventions when making changes to the Mail Classification Schedule. New text is underlined. Deleted text is struck through.

Part B—Competitive Products

2500 Negotiated Service Agreements

2510 Outbound International

2510.7 Global Reseller Expedited Package Contracts

2510.7.6 Products Included in Group (Agreements)

Each product is followed by a list of agreements included within that product.

- Global Reseller Expedited Package Services 2

Baseline Reference

Docket Nos. MC2013-51 and CP2013-64

PRC Order No. 1746, June 13, 2013

Included Agreements

CP2021-140, expires TBD
